

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REPORTER CERTIFIED
TRANSCRIPT

DEMETRIC DI-AZ, OWEN DIAZ and
LAMAR PATTERSON, an individual,

Plaintiffs,

CONFIDENTIAL

vs.

No. 3:17-cv-06748-WHO
VOL II, pgs 187 - 292

TESLA, INC. DBA TESLA MOTORS,
INC.; CITISTAFF SOLUTIONS,
INC.; WEST VALLEY STAFFING
GROUP; CHARTWELL STAFFING
SERVICES, INC. and DOES 1-10,
inclusive,

Defendants.

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

OWEN DIAZ

SAN FRANCISCO, CALIFORNIA

MONDAY, DECEMBER 3, 2018

Reported by:

GINA V. CARBONE, CSR #8249
RPR, RMR, CRR, CCRR
FILE NO.: 18-27207



1 Deposition of OWEN DIAZ, Volume II, taken
2 on behalf of Defendants at CONSTANGY, BROOKS, SMITH
3 & PROPHETE LLP, 351 California Street, Suite 200,
4 San Francisco, California 94104, commencing at
5 10:29 a.m. on Monday, December 3, 2018, before
6 Gina V. Carbone, Certified Shorthand Reporter
7 No. 8249, RPR, RMR, CRR, CCRR.

8

9 A P P E A R A N C E S

10 For the Plaintiffs:

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17

18 For the Defendants TESLA; CITISTAFF SOLUTIONS, INC.:

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25 //

1 APPEARANCES (continued)

2

3 For the Defendant WEST VALLEY STAFFING:

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10

11 ALSO PRESENT: Teresa Kossayian,
12 West Valley Staffing Group

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Frank Quirarte, videographer

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10:50:31 1 and Tom Kawasaki as people who might have
10:50:34 2 information regarding the harassing, offensive, and
10:50:37 3 inappropriate conduct that you experienced while you
10:50:39 4 were working at the Tesla factory. Anybody else?

10:50:54 5 A. At this particular time, I can't recall.

10:51:12 6 Q. What information do you believe Michael
10:51:13 7 Wheeler has about your claims?

10:51:21 8 A. He was present when the picaninny was
10:51:32 9 found.

10:51:34 10 Michael Wheeler, himself, was a victim of
10:51:41 11 said harassment. They had wiped feces on the cart
10:51:48 12 that he was using to harass him. And you would have
10:51:54 13 to talk to Michael Wheeler. He can get more in
10:51:59 14 detail with that.

10:52:00 15 Q. So you said he was present during the,
10:52:02 16 quote, picaninny drawing that was found, correct?

10:52:09 17 A. Yes.

10:52:09 18 Q. And you said he "was a victim of said
10:52:12 19 harassment." What harassment was he a victim of?

10:52:22 20 A. Discriminatory racial.

10:52:24 21 Q. What discriminatory or racial conduct?

10:52:27 22 A. Michael Wheeler is an African-American man.

10:52:30 23 Q. And what conduct do you believe that he was
10:52:33 24 a victim of?

10:52:41 25 A. I just said that they had smeared feces

10:52:48 1 over the utility cart or golf cart that he was
10:52:51 2 using. You would have to get more in detail with
10:52:54 3 that with Michael Wheeler. I don't want to speak
10:52:58 4 upon his feelings. He can relay that to you more
10:53:01 5 himself.

10:53:02 6 Q. And what other conduct do you believe he
10:53:04 7 was the victim of besides the feces?

10:53:19 8 A. You would have to ask Michael Wheeler.

10:53:21 9 Q. I'm asking you, though.

10:53:22 10 A. I'm just saying, reason being, is just he
10:53:26 11 can give you a little bit more in detail of what
10:53:28 12 happened to him. I can just -- I just told you the
10:53:34 13 feces, the harassment. That's basically what I know
10:53:39 14 what he had -- he had went through.

10:53:42 15 So in order to get details that you're
10:53:44 16 trying to get, you'd have to ask Mr. Wheeler.

10:53:50 17 Q. But he discussed some conduct that you
10:53:51 18 believe was harassing towards him with you, correct?

10:53:55 19 A. Yes.

10:53:56 20 Q. Okay. Besides the feces, what other
10:54:00 21 conduct that you believe was harassment did he
10:54:05 22 discuss with you?

10:54:08 23 A. Being called the N-word. Stuff like that.

10:54:10 24 Q. Anything else?

10:54:14 25 A. Not that I can recall at this particular

10:54:17 1 moment.

10:54:22 2 Q. Did he tell you who had wiped feces on the
10:54:26 3 cart?

10:54:35 4 A. I believe he was trying to get Ed Romero,
10:54:41 5 Jaime Salazar, and Victor Quinterez (verbatim) to
10:54:46 6 pull video surveillance of it.

10:54:59 7 Q. Do you know who had wiped feces on the
10:55:02 8 cart?

10:55:02 9 A. No.

10:55:03 10 Q. Did he ever tell you if he found out who
10:55:07 11 had wiped feces on the cart?

10:55:14 12 A. I don't recall.

10:55:17 13 Q. Did he ever tell you whether Edward Romero,
10:55:21 14 Victor Quintero, and Jaime Salazar had pulled the
10:55:26 15 video?

10:55:33 16 A. He was pretty upset about them sweeping it
10:55:35 17 under the rug.

10:55:37 18 Q. He told you that?

10:55:39 19 A. Yes.

10:55:44 20 Q. Do you know if he -- if the video was ever
10:55:47 21 pulled?

10:55:50 22 A. No. I don't know.

10:55:57 23 Q. Do you know what happened as a result of
10:56:00 24 Mr. Wheeler having told you that feces were wiped on
10:56:08 25 the cart?

10:56:12 1 MR. ORGAN: Objection. Vague and
10:56:13 2 ambiguous.

10:56:13 3 THE WITNESS: You'd have to ask
10:56:15 4 Mr. Wheeler.

10:56:15 5 BY MS. ANTONUCCI:

10:56:16 6 Q. Do you know if any actions were taken as a
10:56:17 7 result of feces being wiped on the cart?

10:56:25 8 A. I don't believe there were.

10:56:26 9 Q. Why don't you believe there were?

10:56:30 10 A. He was pretty adamant about the situation.

10:56:38 11 Q. What does that mean?

10:56:45 12 A. It was just another incident that was swept
10:56:51 13 under the rug by the company. He felt that -- well,
10:56:56 14 I'm saying that he felt that he was being treated
10:57:02 15 less than a human being.

10:57:04 16 Q. Did he tell you that?

10:57:09 17 A. Not in words. No.

10:57:12 18 Q. What did he tell you about the incident of
10:57:15 19 the feces on the cart?

10:57:23 20 A. He mentioned it.

10:57:25 21 Q. What did he tell you about it?

10:57:31 22 A. He told me he went to go get the cart from
10:57:40 23 the charging station. When he got ready to sit in
10:57:48 24 the cart, he noticed that it was feces and on the --
10:57:55 25 I believe it was the steering wheel and the seat.

10:58:05 1 He kind of asked -- I believe he asked what was some
10:58:10 2 of his recourses that he could take.

10:58:16 3 Q. Who did he ask what recourses he could
10:58:18 4 take?

10:58:25 5 MR. ORGAN: Objection. Calls for
10:58:26 6 speculation.

10:58:28 7 THE WITNESS: I can't recall.

10:58:35 8 BY MS. ANTONUCCI:

10:58:35 9 Q. Did he tell you anything else about the
10:58:37 10 feces on the cart?

10:58:41 11 A. Not that I can recall at this time.

10:58:53 12 Q. You also mentioned that Mr. Wheeler told
10:58:55 13 you he was called the N-word; is that right?

10:58:59 14 A. I believe so. Yes.

10:59:03 15 Q. What did he tell you about that?

10:59:11 16 A. I can't recall this particular one.

10:59:15 17 Q. Did he tell you who called him the N-word?

10:59:20 18 A. I can't recall.

10:59:24 19 Q. Did he tell you whether he reported the
10:59:26 20 N-word?

10:59:29 21 A. I can't recall.

10:59:41 22 Q. Did he tell you if any actions were --
10:59:46 23 resulted from his report of the N-word?

10:59:51 24 A. I can't recall.

11:00:02 25 Q. Did he tell you if anybody witnessed him


1 I, GINA V. CARBONE, CSR No. 8249, RPR, RMR, CRR,
2 CCRR, certify: that the foregoing proceedings were taken
3 before me at the time and place herein set forth; at
4 which time the witness was duly sworn; and that the
5 transcript is a true record of the testimony so given.
6

7 Witness review, correction and signature was
8 (X) by code. (X) requested.
9 () waived. () not requested.
10 () not handled by the deposition officer due to party
11 stipulation.
12

13 The dismantling or unbinding of the original
14 transcript will render the reporter's certificate null
15 and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties, nor of any of
19 the parties.

20 Dated this 7th day of December , 2018 .
21

22 
23 _____
24 GINA V. CARBONE
25 CSR #8249, STATE OF CALIFORNIA